

CLASSIFICATION OFFICE DECISION

Title of publication: abba1689

Other known title(s): Not stated

OFLC ref: 1900039.007

Medium: Image File

Publisher: Not stated

Country of origin: Not stated

Language: Not applicable

Applicant: Waitakere District Court

Classification:	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 18 years.
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Descriptive note: None

Display conditions: None

Date of entry in Register: 28 February 2019

Date of direction to issue a label: No direction to issue a label has been issued

Date of notice of decision: No notice of decision has been issued

Summary of reasons for decision:

The image depicts three male subjects engaged in sexual activity. The Classification Office has considered whether the image promotes or supports, or tends to promote or support, the exploitation of young persons for sexual purposes under s3(2)(a) of the Films, Videos, and Publications Classification Act 1993 and has concluded that it does not. The ages of the subjects are ambiguous and while there are aspects of their appearance that are youthful, they could just as easily be young adults. As the subjects cannot unequivocally be said to be young persons, the image cannot fairly be said to meet the high threshold required for this criterion. However, the unrestricted availability of the image is still likely to be injurious to the public good. Society perceives harm to children and teenagers from being exposed to explicit sexual material before they are developmentally ready to process it. Therefore the image is restricted to adults. The classification interferes with the right to freedom of expression contained in the New Zealand Bill of Rights Act 1990 but is reasonable and justified in order to prevent injury to the public good.